

CHAPTER 17
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES

The board of regents hereby adopts, with the following exceptions and amendments, rules of the Government Task Force on Uniform Rules of Agency Procedures relating to public records and fair information practices which are printed in the first Volume of the Iowa Administrative Code.

681—17.1(22) Definitions. As used in this chapter:

“*Agency*” means the state board of regents and the institutions it governs—State University of Iowa, Iowa State University of science and technology, University of Northern Iowa, Iowa School for the Deaf, and Iowa Braille and Sight Saving School.

“*Custodian*” means the official delegated authority by the agency to release records or that official’s designee. Custodians are as follows: for the state board of regents, the executive director; for the State University of Iowa, the institutional secretary; for Iowa State University of science and technology, the institutional secretary; for the University of Northern Iowa, the institutional secretary; for Iowa School for the Deaf, the superintendent; and for Iowa Braille and Sight Saving School, the superintendent.

681—17.3(22) Requests for access to records.

17.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to Executive Director, State Board of Regents, Old Historical Building, Des Moines, Iowa 50319. The board of regents will forward the request to the appropriate person.

17.3(2) Office hours. Open records shall be made available during all customary office hours, which are from 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays. Some offices close for the noon hour from approximately 12 noon to 1 p.m. Additionally, some office hours may conclude at 4 p.m. during the summer.

17.3(3) Request for access. Requests for access to records may be in writing or in person. The agency may accommodate telephone requests. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

17.3(7) Fees.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly compensation of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

681—17.6(22) Procedure by which a subject may have additions, dissents, or objections entered into the record. Except as otherwise provided by law, the subject of a record shall be allowed to have a written statement of additions, dissents, or objections entered into the record. The subject shall send the statement to the custodian of the record or to the board of regents office. The statement must be dated and signed by the subject, and shall include the current address and telephone number of the subject or the subject’s representative.

681—17.7(22) Consent to disclosure by the subject of a confidential record. The subject of a confidential record may consent to agency disclosure to a third party of that portion of the record concerning the subject. The consent must be in writing and must identify the particular record or records that may be disclosed, the particular person, or class of persons, to whom the record may be disclosed. The person to whom the record is to be disclosed must provide proof of identity. Appearance of counsel on behalf of the subject will be deemed consent to disclose records about the subject to that attorney.

681—17.9(22) Disclosures without consent of the subject.

17.9(1) Open records are routinely disclosed without the consent of the subject.

17.9(2) To the extent allowed by law, disclosure of confidential records or exempt records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a. For a routine use as defined in rule 17.10(22) or in the notice for a particular record system.
- b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that the record is transferred in a form that does not identify the subject.
- c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.
- e. To the legislative fiscal bureau under Iowa Code section 2.52.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

681—17.10(22) Routine use. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential or exempt records.
2. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
3. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
4. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
5. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
6. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

681—17.11(22) Consensual disclosure of confidential records.

17.11(1) *Consent to disclosure by a subject individual.* The subject may consent in writing to agency disclosure of confidential records as provided in rule 17.7(22).

17.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

681—17.12(22) Release to subject.

17.12(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18).

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code.

d. As otherwise authorized by law.

17.12(2) When a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

681—17.13(22) Availability of records.

17.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

17.13(2) *Confidential records.* The following records shall be kept confidential. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))

b. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

c. Tax records made available to the agency. (Iowa Code sections 422.17 and 422.20)

d. Student records (Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g and Iowa Code section 22.7)

e. Hospital records, medical records, and professional counselor records (42 CFR Part II, IAC 653—13.10(10), Iowa Code sections 228.2 and 135.40 to 135.42)

f. Work product of an attorney (Iowa Code section 602.10112). Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R. Civ. P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law;

g. Public peace officers' investigative reports. (Iowa Code chapter 692)

h. Criminal identification files of law enforcement agencies. (Iowa Code chapter 692)

i. Records of identity of owners of public bonds or obligations. (Iowa Code section 76.11)

j. Information concerning the nature and location of any archaeological resources or site. (Iowa Code section 263B.10)

k. Documents related to civil rights actions. (Iowa Code section 216.15(4))

l. Any other records made confidential by law.

m. Records which are exempt from disclosure under Iowa Code section 22.7.

n. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“d.”

o. Those portions of agency staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the agency.
- (See Iowa Code sections 17A.2 and 17A.3)

p. Records exempted from public inspection under any other provision of law.

681—17.14(22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 17.1(22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

17.14(1) *State board of regents.* Personnel and employment management information systems. The above listed records system is collected pursuant to the authority of Iowa Code chapter 262. Storage is in paper form and information cannot be matched, collated and compared.

17.14(2) *State University of Iowa.*

- a.* Payroll and personnel information system
- b.* Professional and scientific employees—employment status information system
- c.* General service staff employment register
- d.* Faculty personnel information system
- e.* Student record information system
- f.* Student aid resource management system
- g.* Gifts and grants information management system
- h.* Annual budget line entry system
- i.* Student admission information management system
- j.* Patient information system
- k.* Hospital management information system
- l.* Purchasing office management system
- m.* Construction/jobs management system
- n.* Event ticket sales systems
- o.* Motor pool management system
- p.* Residence halls management systems

All of the above listed records are collected pursuant to the authority of Iowa Code chapters 262, 262A, 263, 263A, and 271. All are stored in electronic form. Supplementary records in these categories are stored in paper form or on microfilm or microfiche. Information in categories lettered “a” through “i” can be matched, collated, and compared. Information in categories lettered “j” and “k” can be matched, collated, and compared. Information in categories lettered “l” through “p” cannot be matched, collated, and compared.

17.14(3) *Iowa State University of science and technology.*

- a. Student information system, for example, biographical, academic, housing, financial aid and admissions
- b. Personnel information system, for example, biographical, employment, payroll and budget information for the faculty, professional and scientific and merit systems
- c. Accounting information system, for example, accounts receivable, accounts payable, budget system, gifts and grants, and contracts and grants
- d. Telecommunications information system
- e. Miscellaneous information systems, for example, transportation services, media resources, information service biographical files, affirmative action, travel, traffic and library circulation
- f. Veterinary diagnostic laboratory system
- g. University extension system, for example, continuing education units, and plant pathology, horticulture, seed and soil testing
- h. Patient information system
- i. Medical management system
- j. Purchasing system
- k. Police records system
- l. Parking systems registration information
- m. Alumni records and event ticket sales system
- n. State board of regents registered bonds system

All of the above listed records are collected pursuant to the authority of Iowa Code chapters 262, 262A, and 266. All are stored in electronic form, except categories lettered “f” and “h” which are stored in hard copy form. Duplicate information or copies of the electronically stored information may be found in some cases on microfilm, microfiche or hard copy. Information in categories lettered “a” through “e,” “g,” “j,” “l,” and “m” can be matched, collated, and compared. Information in categories “f” and “h” can be matched, collated, and compared only with accounts receivable (see category “c”). The remaining categories cannot be matched, collated, or compared.

17.14(4) *University of Northern Iowa.*

- a. Academic achievement center records systems
- b. Academic advising examination services/orientation information systems
- c. Academic computing center systems
- d. Accounts receivable/payable systems
- e. Admissions information systems
- f. Affirmative action records systems
- g. Alumni foundation/development systems
- h. Architect/planning/engineering records systems
- i. Athletic department records systems
- j. Budget management records systems
- k. College of education/school of business advising center record systems
- l. Continuing education/correspondence/extension records systems
- m. Financial aid information systems
- n. Grants and contracts records systems
- o. Housing/dining systems
- p. Library/archives records systems
- q. Personnel/budget/payroll information systems
- r. Physical plant systems
- s. Purchasing/inventory systems
- t. School of business division of external services records systems
- u. Student information systems (student records)
- v. Student union/student activities records systems

- *w. *Academic affairs information systems #*
- *x. *Ancillary services records systems*
- *y. *Counseling/health/pharmacy systems*
- *z. *Deans/department heads/faculty advisors record systems*
- *aa. *Handicapped services systems #*
- *ab. *Institutional officials records systems #*
- *ac. *Institutional research records systems including social/behavioral research center*
- *ad. *Operations record systems*
- *ae. *Placement/career center/cooperative education systems*
- *af. *Price laboratory management/records systems #*
- *ag. *Public safety records systems*
- *ah. *Small business assistance center (hazardous waste) record systems*
- *ai. *Special events record systems*
- *aj. *Speech/hearing/reading clinics records systems #*
- *ak. *Student field experience systems #*
- *al. *United faculty records systems #*
- *am. *UNISA records systems #*

All of the above listed records systems are collected pursuant to the authority of Iowa Code chapters 262, 262A, 265 and 268. Means of storage include electronic unless otherwise noted. Moreover, some records may also be stored in micrographic or paper forms. All or parts of information in each system may be matched, collated, and compared except for those systems noted by an asterisk (*).

Storage in paper or micrographic form only.

17.14(5) *Iowa School for the Deaf.*

- a. *Academic*
- b. *Medical*
- c. *Business—payroll and purchasing*
- d. *Residential*
- e. *Personnel*

All of the above listed records, in whole or in part, are maintained on paper and in electronic form. The records stored in electronic form for systems “a,” “b,” “d,” and “e” can be matched, collated, and compared. Records stored in electronic form for system “c” cannot be matched, collated or compared to any other of the systems. All of the above listed records are collected pursuant to the authority of Iowa Code chapters 262 and 270.

17.14(6) *Iowa Braille and Sight Saving School.*

- a. *Payroll and personnel information system*
- b. *Faculty and administrative personnel information system*
- c. *Financial accounting data system*
- d. *Student record information system (academic and medical)*
- e. *Annual budget system*
- f. *Evaluation report system for all students*
- g. *Consultative reports completed for other agencies*
- h. *Gifts and grants record keeping system*
- i. *State large print orders system*
- j. *State lend/lease depository system*

Records in “a,” “c,” and “e” are stored in electronic form and can be matched, collated, and compared. Records in “b,” “d,” and “f” through “j” are stored on paper and cannot be matched, collated, or compared. All of the above listed records are collected pursuant to the authority of Iowa Code chapters 262, 262A, and 269.

681—17.15(22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 17.1(22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information. In addition, some records may contain information about individuals.

All records are stored both on paper and in automated data processing systems unless otherwise noted.

17.15(1) Rule making. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

17.15(2) Board records. Agendas, minutes, and materials presented to the state board of regents are available from the office of the state board of regents, except those records concerning closed sessions which are confidential under Iowa Code section 21.5(4) and other provisions of law. Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

17.15(3) Publications. News releases, annual reports, project reports, agency newsletters, etc., are available through the institutions' offices for public information. Brochures describing various agency programs are available at local offices of the agency.

Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees.

17.15(4) Statistical reports. Periodic reports for various agency programs are available through the institutions' office for public information.

17.15(5) Grants. Records on persons receiving grants are available through the institutions' offices for public information. The records may contain information about employees of a grantee.

17.15(6) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

17.15(7) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available in every office of the agency. Policy manuals do not contain information about individuals.

17.15(8) All other records that are not exempted from disclosure by law. The agency maintains a variety of records which do not generally contain information pertaining to named individuals.

17.15(9) All other records that are not exempted from disclosure by law.

17.15(10) All data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

681—17.16(22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11.

[Filed emergency 5/27/88, after Notice 3/23/88—published 6/15/88, effective 7/1/88]

[Filed 5/19/95, Notice 4/12/95—published 6/7/95, effective 7/12/95]